

interests—so do nonprofit corporations, individuals, unions, and other associations. The interest of a representative of the news media in using the information for news dissemination purposes will not be considered a commercial interest.

(2) If disclosure would further a commercial interest of the requester, would that effect outweigh the advancement of the public interest defined in paragraph (b) of this section? Which effect is primary?

(d) *Deciding between waiver and reduction.* If the disclosure passes both tests, we will normally waive fees. However, in some cases we may decide only to reduce the fees. For example, we may do this when disclosure of some but not all of the requested records passes the tests.

(e) *Procedure for requesting a waiver or reduction.* You must make your request for a waiver or reduction at the same time you make your request for records. You should explain why you believe a waiver or reduction is proper under the analysis in paragraphs (a) through (d) of this section. Only FOI Officers may make the decision whether to waive, or reduce, the fees. If we do not completely grant your request for a waiver or reduction, the denial letter will designate a review official. You may appeal the denial to that official. In your appeal letter, you should discuss whatever reasons are given in our denial letter. The process prescribed in § 402.190 of this part will also apply to these appeals.

§ 402.190 Officials who may deny a request for records under FOIA.

Only the Director, Office of Disclosure Policy, SSA, or her or his designee is authorized to deny a written request to obtain, inspect, or copy any social security record.

§ 402.195 How a request is denied.

(a) *Oral requests.* If we cannot comply with your oral request because the Director of the Office of Disclosure Policy (or designee) has not previously made a determination to release the record you want, we will tell you that fact. If you still wish to pursue your request, you must put your request in writing.

(b) *Written requests.* If you make a written request and the information or record you requested will not be released, we will send you an official denial in writing. We will explain why the request was denied (for example, the reasons why the requested document is subject to one or more clearly described exemptions), will include the name and title or position of the person who made the decision, and what your appeal rights are.

(c) *Unproductive searches.* We make a diligent search for records to satisfy your request. Nevertheless, we may not be able always to find the records you want using the information you provided, or they may not exist. If we advise you that we have been unable to find the records despite a diligent search, this does not constitute a denial of your request.

§ 402.200 How to appeal a decision denying all or part of a request.

(a) *How to appeal.* If all or part of your written request was denied, you may request that the Commissioner of Social Security, 6401 Security Boulevard, Baltimore, MD 21235 review that determination. Your request for review:

(1) Must be in writing;

(2) Must be mailed within 30 days after you received notification that all or part of your request was denied or, if later, 30 days after you received materials in partial compliance with your request; and

(3) May include additional information or evidence to support your request.

(b) *How the review is made.* After reviewing the prior decision and after considering anything else you have submitted, the Commissioner or his or her designee will affirm or revise all or part of the prior decision. The Commissioner (or a designee) will affirm a denial only after consulting with the appropriate SSA official(s), including legal counsel. The decision must be made within 20 working days after your appeal is received. The Commissioner or a designee may extend this time limit up to 10 additional working days if one of the situations in § 402.140(a) exists, provided that, if a prior extension was used to process

§ 402.205

this request, the sum of the extensions may not exceed 10 working days. You will be notified in writing of any extension, the reason for the extension, and the date by which your appeal will be decided.

(c) *How you are notified of the Commissioner's decision.* The Commissioner or a designee will send you a written notice of the decision explaining the basis of the decision (for example, the reasons why an exemption applies) which will include the name and title or position of the person who made the decision. The notice will tell you that if any part of your request remains unsatisfied, you have the right to seek court review.

§ 402.205 U.S. District Court action.

If the Commissioner or a designee, upon review, affirms the denial of your request for records, in whole or in part, you may ask a U.S. District Court to review that denial. See 5 U.S.C. 552(a)(4)(B). If we fail to act on your request for a record or for review of a denial of such a request within the time limits in §402.140(a) or in §402.190(b), you may ask a U.S. District Court to treat this as if the Commissioner had denied your request.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart A—Introduction, General Provisions and Definitions

Sec.

- 404.1 Introduction.
- 404.2 General definitions and use of terms.
- 404.3 General provisions.

Subpart B—Insured Status and Quarters of Coverage

GENERAL

- 404.101 Introduction.
- 404.102 Definitions.

FULLY INSURED STATUS

- 404.110 How we determine fully insured status.
- 404.111 When we consider a person fully insured based on World War II active military or naval service.
- 404.112 When we consider certain employees of private nonprofit organizations to be fully insured.

20 CFR Ch. III (4–1–98 Edition)

- 404.115 Table for determining the quarters of coverage you need to be fully insured.

CURRENTLY INSURED STATUS

- 404.120 How we determine currently insured status.

DISABILITY INSURED STATUS

- 404.130 How we determine disability insured status.
- 404.131 When you must have disability insured status.
- 404.132 How we determine fully insured status for a period of disability or disability insurance benefits.
- 404.133 When we give you quarters of coverage based on military service to establish a period of disability.

QUARTERS OF COVERAGE

- 404.140 What is a quarter of coverage.
- 404.141 How we credit quarters of coverage for calendar years before 1978.
- 404.142 How we credit self-employment income to calendar quarters for taxable years beginning before 1978.
- 404.143 How we credit quarters of coverage for calendar years after 1977.
- 404.144 How we credit self-employment income to calendar years for taxable years beginning after 1977.
- 404.145 When you acquire a quarter of coverage.
- 404.146 When a calendar quarter cannot be a quarter of coverage.

APPENDIX TO SUBPART B—QUARTER OF COVERAGE AMOUNTS FOR CALENDAR YEARS AFTER 1978

Subpart C—Computing Primary Insurance Amounts

GENERAL

- 404.201 Introduction.
- 404.202 Other regulations related to this subpart.
- 404.203 Definitions.
- 404.204 Methods of computing primary insurance amounts—general.

AVERAGE-INDEXED-MONTHLY EARNINGS METHOD OF COMPUTING PRIMARY INSURANCE AMOUNTS

- 404.210 Average-indexed-monthly-earnings method.
- 404.211 Computing your average indexed monthly earnings.
- 404.212 Computing your primary insurance amount from your average indexed monthly earnings.
- 404.213 Computation where you are eligible for a pension based on your noncovered employment.